

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA	:	
	:	CASE NO. 2:07 cr 236
v.	:	
	:	JUDGE FROST
ERIN M. STEWART	:	

PLEA AGREEMENT

Plaintiff United States of America and Defendant ERIN M. STEWART hereby enter into the following Plea Agreement pursuant to Rule 11(c) of the Federal Rules of Criminal Procedure:

1. Defendant ERIN M. STEWART will enter a plea of guilty to Count 3 of an Indictment which charges her with subscribing to a federal tax return which was false as to a material matter in violation of 26 U.S.C. § 7206 (1).
 2. Defendant ERIN M. STEWART understands that the maximum penalty that may be imposed pursuant to her plea of guilty to Count 3 is a term of imprisonment of not more than three (3) years, a fine of not more than \$100,000, restitution to the Internal Revenue Service ("I.R.S.") and any other victims of her crime, the costs of prosecution and up to 3 years of supervised release.
 3. Defendant ERIN M. STEWART also will enter a plea of guilty to Count 4 of the Indictment which charges her with wire fraud in violation of 18 U.S.C. § 1343.
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4. Defendant ERIN M. STEWART understands that the maximum penalty that may be imposed pursuant to her plea of guilty to Count 4 is a term of imprisonment of not more than twenty (20) years, a fine of not more than \$250,000, restitution to the victims of her crime, and up to 3 years of supervised release.

5. The defendant further understands that sentences of imprisonment may be imposed on each count, and that she may be required to serve such sentences consecutively, that is, one after the other.

6. The defendant, ERIN M. STEWART, will pay a special assessment of \$100 on each count to which she pleads guilty, for a total of \$200, as required in 18 U.S.C. § 3013. This assessment shall be paid by defendant before sentence is imposed and defendant will furnish a receipt at sentencing. The payment shall be made to the United States District Court, at the Clerk's Office, 85 Marconi Boulevard, Columbus, Ohio 43215.

7. Defendant ERIN M. STEWART further understands that she has the following rights, among others:

- a. To be represented by an attorney at every stage of the proceeding, and that, if necessary, one will be appointed to represent her;
- b. To plead not guilty and to be tried by a jury;
- c. To be assisted by counsel during such trial;
- d. To confront and cross-examine adverse witnesses;
- e. To use compulsory process to summon witnesses for the defense;
- f. Not to be compelled to testify; and

g. To be presumed innocent throughout trial until and unless found guilty by a jury beyond a reasonable doubt.

8. Defendant ERIN M. STEWART understands that if her pleas of guilty to Counts 3 and 4 of the Indictment are accepted by the Court there will not be a further trial of any kind, so that by pleading guilty she waives, or gives up, her right to a trial.

9. Defendant ERIN M. STEWART understands that the Court intends to question her on the record about the offenses to which she pleads guilty, which questioning may be under oath and which could provide a basis for a later prosecution of this defendant for perjury or false statements if she does not tell the truth.

10. If such pleas of guilty to Counts 3 and 4 are entered and not withdrawn and the defendant acts in accordance with all other terms of this agreement, the United States Attorney for the Southern District of Ohio agrees to seek leave of Court at sentencing to dismiss Counts 1, 2, 5, 6, 7 and 8 of the Indictment.

11. Defendant ERIN M. STEWART agrees that the restitution she will be required to pay in this case shall include, in addition to all other restitution amounts that may be imposed by the Court, all of the proper amounts that she was obligated to pay, but failed to pay, as taxes for and on behalf of her mother for the tax years 2000, 2001 and 2002.

12. Defendant ERIN M. STEWART understands that the amount of loss calculated by the I.R.S. that was experienced as a direct result of her fraudulent conduct as charged in part in the wire fraud counts (Counts 4, 5, 6, 7 and 8) is estimated to be \$402,574, the exact amount to be determined prior to sentencing, and which figure will represent both her offense conduct under § 2B1.1 of the United States Sentencing Guidelines (hereinafter, "advisory guidelines")

and the restitution she agrees to make to her mother. Accordingly, defendant's base offense level would be **21** if the wire fraud losses (Counts 4, 5, 6, 7 and 8) exceed \$400,000, and **19** if they are determined to have been less than \$400,000 but more than \$200,000. Additionally, Defendant ERIN M. STEWART understands that the amount of tax loss calculated by the I.R.S. that was experienced as a direct result of her subscribing to false tax returns (Counts 1, 2 and 3) is estimated to be \$124,055, the exact amount to be determined prior to sentencing, and which figure will represent both her offense conduct under § 2T1.1 of the advisory guidelines and the restitution she agrees to make to the I.R.S. Thus, for Counts 1, 2 and 3, defendant's base offense level would be 16, plus 2 points, each, for having shielded criminally derived income and using sophisticated means (§ 2T1.1(b)(1) and (2)), yielding an offense level of **20** for those tax offenses. The parties agree that the 2007 edition of the Guidelines Manual is appropriate for this case, and further understand that the agreements in this paragraph are not binding on the Probation Department or the Court and that the final determination concerning the application of the advisory guidelines and for imposition of the sentence in this case rests solely with the Court, which includes, but is not limited to, a determination of the amount of loss and the appropriate amount of restitution to be imposed.

13. Under the advisory guidelines, 2 points, each, will be added to defendant's offense level because of the vulnerable victim (§ 3A1.1(b)(1)) and because of her abuse of a trust relationship (§ 3B1.3), although 2 of those points would be subtracted because of her acceptance of responsibility of her criminal conduct (§ 3E1.1(a)). The parties understand that the agreements in this paragraph concerning Chapter 3 of the advisory guidelines are not binding on the Probation Department or the Court and that the final determination concerning the application of

the Chapter 3 advisory guidelines and for imposition of the sentence in this case rests solely with the Court.

14. The defendant, ERIN M. STEWART, is aware that, in light of *United States v. Booker*, 125 S.Ct. 738 (2005), the United States Sentencing Guidelines are advisory and are not mandatory, and that the Court otherwise is required to impose a sentence consistent with the directives set forth at 18 U.S.C. § 3553(a). The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offenses to which the defendant pleads guilty. The defendant is aware that the Court has not yet determined a sentence. The defendant is further aware that any estimate of a probable sentencing range that the defendant may have received, or may receive in the future, from his counsel, the United States, or the probation office is a prediction, not a promise, and is not binding on the United States, the Probation Department or the Court. The United States makes no promise or representation concerning the sentence that the defendant will receive, and the defendant cannot withdraw guilty pleas based upon the actual sentence.

15. By virtue of her pleas of guilty to Counts 3 and 4 of the Indictment, this defendant understands that she is not a prevailing party as defined by 18 U.S.C. § 3006A and hereby expressly waives her right to sue the United States.

16. Defendant acknowledges having been advised by counsel of defendant's rights, in limited circumstances, to appeal the conviction or sentence in this case, including the appeal right conferred by 18 U.S.C. § 3742, and to challenge the conviction or sentence collaterally through a post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255. The defendant expressly waives those rights, except as follows: (a) any punishment in excess of the statutory


maximum; (b) any sentence to the extent that it exceeds the maximum of the sentencing range determined under the advisory Sentencing Guidelines in accordance with the sentencing stipulations and computations in this agreement, using the Criminal History Category found applicable by the Court. Nothing in this paragraph shall act as a bar to the defendant perfecting any legal remedies defendant otherwise may have on appeal or collateral attack respecting claims of ineffective assistance of counsel or prosecutorial misconduct.

17. No additional promises, agreements, or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

(Date)

ERIN M. STEWART
Defendant

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